

1992

Robert W. Trojan v. Southern General Insurance Company : Brief of Appellant

Utah Court of Appeals

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Roger H. Bullock; Strong & Hanni; Attorneys for Defendant/Appellant.

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UTAH COURT OF APPEALS
BRIEF

UTAH
DOCUMENT
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.A10
DOCKET NO. 920880CA--

IN THE SUPREME COURT OF THE STATE OF UTAH

ROBERT W. TROJAN,

Plaintiff/Appellee,

vs.

SOUTHERN GENERAL INSURANCE
COMPANY,

Defendant/Appellant,

)
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)
)
)
)
)
)
)
)

92-0880-CA

Case No. ~~000000~~
(900-900481CN)

Priority No. 16

BRIEF OF APPELLANT SOUTHERN GENERAL INSURANCE COMPANY

APPEAL FROM JUDGMENT OF THE THIRD JUDICIAL DISTRICT COURT
OF SALT LAKE COUNTY, STATE OF UTAH
THE HONORABLE JAMES S. SAWAYA, PRESIDING

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Attorney for Plaintiff/Appellee
Robert W. Trojan

FILED

JAN 20 1993

COURT OF APPEALS

IN THE SUPREME COURT OF THE STATE OF UTAH

ROBERT W. TROJAN,)	
)	
Plaintiff/Appellee,)	
)	Case No. 920394
vs.)	(900-900481CN)
)	
SOUTHERN GENERAL INSURANCE)	Priority No. 16
COMPANY,)	
)	
Defendant/Appellant,)	

BRIEF OF APPELLANT SOUTHERN GENERAL INSURANCE COMPANY

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Attorney for Plaintiff/Appellee
Robert W. Trojan

LIST OF ALL PARTIES TO THE PROCEEDING

Defendant/Appellant Southern General Insurance Company believes and represents that the caption of the case on appeal contains the names of all parties to the proceeding.

TABLE OF CONTENTS

	<u>Page</u>
TABLE OF AUTHORITIES	iii
JURISDICTION	1
STATEMENT OF ISSUES PRESENTED FOR REVIEW	1
STANDARD OF REVIEW	1
STATEMENT OF THE CASE	2
STATEMENT OF FACTS	2
SUMMARY OF ARGUMENTS	5
ARGUMENT	6
POINT I. PLAINTIFF/APPELLEE ROBERT TROJAN WAS NOT ENTITLED TO COLLECT ON THE INSURANCE POLICY COVERING HIS AIRCRAFT FOR DAMAGE WHICH OCCURRED AFTER THE AIRCRAFT WAS TOTALLY DESTROYED BY A NON-COVERED LOSS	6
POINT II. THE DAMAGE FOR WHICH ROBERT TROJAN SOUGHT RECOVERY WAS EXCLUDED UNDER THE POLICY EXCLUSION FOR LOSS BY POLLUTION AND CONTAMINATION OF ANY KIND WHATSOEVER, WHERE THE DAMAGE OCCURRED FROM SUBMERSION IN WATER IN UTAH LAKE AND FROM CONTAMINATION BY LAKE WATER AND BY PARTICLES OF DIRT AND OTHER DEBRIS IN THE LAKE WATER	8
POINT III. ROBERT TROJAN WAS NOT ENTITLED TO RECOVER UNDER THE POLICY FOR EXPENSES FOR RETRIEVING HIS AIRCRAFT FROM UTAH LAKE WHERE THE POLICY CONTRACT DOES NOT PROVIDE FOR ANY SUCH BENEFIT	10
CONCLUSION	10
ADDENDUM	13

TABLE OF AUTHORITIES

	<u>Page</u>
<u>Cases Cited</u>	
<u>American Casualty Co. of Reding, Penn. v. Myrick</u> , 304 F.2d 179 (5th Cir. 1962)	9
<u>Bear River Mut. Ins. Co. v. Wright</u> , 770 P.2d 1019 (Utah App. 1989)	6
<u>Bergera v. Ideal Nat'l Life Ins. Co.</u> , 524 P.2d 599 (Utah 1974)	6
<u>Bonham v. Morgan</u> , 788 P.2d 497, 499 (Utah 1989)	1
<u>Farmers Ins. Exchange v. Call</u> , 712 P.2d 231 (Utah) 1985)	7
<u>Hi-G Inc. v. St. Paul Fire & Maurine Ins. Co.</u> , 283 F.Supp. 211 (D. Mass. 1967) aff'd per curiam, 391 F.2d 924 (1st Cir. 1968)	9
<u>McQuade v. Nationwide Mutual Fire Ins. Co.</u> , 587 F.Supp. 67 (D. Mass. 1984)	9
<u>Reserve Ins. Co. v. Pisciotto</u> , 640 P.2d 764 (Cal. App. 1982)	7
<u>Transamerica Cash Reserve Inc. v. Dixie Power & Water Inc.</u> , 789 P.2d 24 (Utah 1990)	1
<u>Valley Bank & Trust Co. v. United States Life Title Ins. Co.</u> , 776 P.2d 933 (Utah App. 1989)	6
<u>Wagner v. Farmers Ins. Exchange</u> , 786 P.2d 763, 765 (Utah App. 1990)	7

Statutes Cited

Utah Code Annotated, Section 78-2-2(3)(j) (1992 Amend.)	1
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JURISDICTION

This court has jurisdiction of this appeal pursuant to Utah Code Ann., § 78-2-2(3)(j) (1992 Amend.).

STATEMENT OF ISSUES PRESENTED FOR REVIEW

1. Whether plaintiff/appellee Robert W. Trojan was entitled to collect on the insurance policy covering his aircraft for damage which occurred after the aircraft was totally destroyed by a non-covered loss.

2. Whether the damage for which Robert Trojan sought recovery was excluded under the policy exclusion for loss by pollution and contamination of any kind whatsoever, where the damage occurred from submersion in water in Utah Lake and from contamination by lake water and by particles of dirt and other debris in the lake water.

3. Whether Robert Trojan was entitled to recover under the policy for expenses for retrieving his aircraft from Utah Lake where the policy contract does not provide for any such benefit.

STANDARD OF REVIEW

The standard of review is for correctness, without deferring to the trial court's legal determinations. Bonham v. Morgan, 788 P.2d 497, 499 (Utah 1989); Transamerica Cash Reserve Inc. v. Dixie Power & Water Inc., 789 P.2d 24, 25 (Utah 1990). This standard of review applies to all issues in this appeal.

STATEMENT OF THE CASE

Nature of the Case and Course of Proceedings

Plaintiff and appellee Robert Trojan seeks to recover based on the provisions of an insurance policy issued by defendant and appellant Southern General Insurance Company, for damage and salvage expenses to his Cessna 310 aircraft resulting from the crash of the aircraft into Utah Lake.

Disposition in Court Below

Both parties stipulated to the material facts and filed cross-motions for summary judgment. The court granted Trojan's motion and denied Southern General's motion, and entered judgment accordingly. This appeal followed.

Relief Sought on Appeal

Defendant and appellant Southern General Insurance Company requests this court to reverse summary judgment for Robert Trojan and enter judgment for Southern General.

STATEMENT OF FACTS

The following facts were established by the pleadings or by stipulation of the parties:

1. Robert Trojan, a retired TWA pilot, was the owner of a Cessna 310 aircraft which crashed into Utah Lake on November 9, 1989, resulting in substantial damage to the aircraft. His adult son who was piloting the aircraft, and a passenger, were both killed in the tragic accident.

2. The aircraft was insured according to the terms of Southern General policy number AU-AO-52-75 issued to Mr. Trojan.

(R. 6-18). Southern General does not dispute that the premium was paid, the policy was issued, and coverage applies to the extent provided in the policy, except as limited or excluded by the policy language itself.¹

3. The policy contract provides that the aircraft was insured under "Coverage F - All Risks While Not in Motion" in the amount of \$22,500 (\$23,000 minus a deductible amount of \$500). For this coverage Mr. Trojan paid a premium of \$460. (R. 6).

4. The aircraft was not insured under "Coverage G - All Risks While in Motion." Mr. Trojan did not purchase this coverage and did not pay any premium for it. (R. 6).

5. These coverages mean that Southern General was not obligated to pay for damage "while the aircraft is moving under its own power or resulting momentum or while the engine is starting or running." (Definition 10, R. 13).

6. Southern General was obligated to pay for damage to the aircraft which happens "while the engine is not operating and while the aircraft is not in motion under its own power." (Coverage "F" and Coverage "G", R. 11).

7. Condition No. 11 provides:

When you have a loss, whether or not it is covered by this Policy, the amount of insurance on your aircraft is reduced as of the date of the loss by the amount of

¹The policy contract also provided liability coverage for claims for the death of the passenger, and Southern General defended and protected Robert W. Trojan and the estate of his son the pilot on those claims, ultimately paying the entire applicable liability limit of \$50,000 to settle all claims on behalf of the passenger.

such loss. Such reduced value will continue until repairs are commenced and then the amount of insurance will automatically be increased by the value of the completed repairs. When all repairs are completed the amount of insurance will be fully reinstated unless the policy has expired or been canceled.

(R. 15).

8. The policy exclusions provide: "This Policy does not apply: * * * 14. to loss by pollution and contamination of any kind whatsoever." (R. 12-13).

9. The aircraft crashed into Utah Lake on its own power and momentum, causing damages to it in excess of the coverage amount of \$22,500. Before the accident, the aircraft had a value of \$25,875. The cost of repairs for damage to the aircraft while it was moving on its own power and momentum would have been \$34,500. (Affidavit of William H. Greene, adopted by stipulation of the parties, R. 67-71, 96-97).

10. After the aircraft stopped moving under its own power or resulting momentum and the engine was not operating, the aircraft sustained damage from submersion in Utah Lake and from contamination by water, particles of dirt and other debris in the water in the amount of \$4,839. (Stipulation of the parties, R. 96. See also R. 69).

11. Robert Trojan incurred the cost of retrieving the aircraft from Utah Lake in the amount of \$6,160. (Stipulation of the parties, R. 96).

12. Robert Trojan sold the salvage of the aircraft for the reasonable value of \$3,200. (Stipulation of the parties, R. 97).

13. The court entered amended final judgment for Trojan in the amount of \$10,499, consisting of damage from submersion and contamination in the stipulated amount of \$4,839, plus cost of retrieving the aircraft from the lake in the stipulated amount of \$6,160, less the deductible of \$500 (R. 198-199).

SUMMARY OF ARGUMENTS

POINT I. The aircraft was a total loss from damage while moving under its own power or resulting momentum. This was a risk which Robert Trojan specifically did not purchase insurance to cover and did not pay a premium for (coverage "G" on policy declarations page, R. 6).

POINT II. The trial court awarded \$4,839 for damage from submersion in lake water and contamination by lake water and particles of dirt and other debris in the water. This damage is excluded by the policy exclusion of loss by pollution and contamination of any kind whatsoever.

POINT III. The trial court awarded Robert Trojan his expenses for retrieving the aircraft from Utah Lake of \$6,160. Payment of such expenses is not provided anywhere in the policy contract.

ARGUMENT

POINT I.

PLAINTIFF/APPELLEE ROBERT TROJAN WAS NOT ENTITLED TO COLLECT ON THE INSURANCE POLICY COVERING HIS AIRCRAFT FOR DAMAGE WHICH OCCURRED AFTER THE AIRCRAFT WAS TOTALLY DESTROYED BY A NON-COVERED LOSS.

It is undisputed that the aircraft sustained damage in excess of the insurance coverage while in motion, and this damage is not covered under the contract. At that point, under the terms of the policy, the amount of insurance on the aircraft was reduced by the amount of such uninsured loss. Since the uninsured loss exceeded the amount of insurance, the amount of insurance was reduced to zero. (Policy, para. 11, R. 15).

Later, contamination and pollution caused by the aircraft being submerged under water caused further damage of \$4,839. However, the aircraft had already been damaged below any insured value through impact with the water surface while the aircraft was moving, which is clearly not covered under the policy.

Insurance policies are contracts. As a consequence, those rules applicable to contracts generally are likewise applicable to the policy which Southern General issued. Bergera v. Ideal Nat'l Life Ins. Co., 524 P.2d 599, 600 (Utah 1974).

In the absence of ambiguity, Utah courts interpret the terms of an insurance policy according to their plain meaning. Valley Bank & Trust Co. v. United States Life Title Ins. Co., 776 P.2d 933 (Utah App. 1989), Bear River Mut. Ins. Co. v. Wright, 770 P.2d 1019 (Utah App. 1989).

The parties may contract on what risks will be covered and what will not be covered. In Farmers Ins. Exchange v. Call, 712 P.2d 231, 233 (Utah 1985), the Utah Supreme Court emphasized an insurer's right to include exclusions within the insurance policy:

An insurer has the right to contract with an insured as to the risks it will or will not assume, as long as neither statutory law nor public policy is violated. Thus, an insurer may include in a policy any number or kind of exceptions and limitations to which an insured will agree unless contrary to statute or public policy.

An insurer may limit its obligation to provide coverage by "exclusions phrased in language which clearly and unmistakably communicates to the insured the specific circumstances under which the expected coverage will not be provided." Reserve Ins. Co. v. Pisciotto, 640 P.2d 764 (Cal. App. 1982), quoted with approval in Wagner v. Farmers Ins. Exchange, 786 P.2d 763, 765 (Utah App. 1990).

The plain meaning of the written language relied on by Southern General is that when the aircraft was damaged by an uninsured risk while in motion, its insured value was reduced to nothing until it could be repaired or replaced, which it was not. This is reasonable. The aircraft was destroyed below its insured value by impact with the water surface, a risk which Mr. Trojan chose not to insure against.

Subsequently, loss by pollution and contamination excluded under the policy was in the value of \$4,839. However the

aircraft had already been totally destroyed by an uninsured cause at that time.

POINT II.

THE DAMAGE FOR WHICH ROBERT TROJAN SOUGHT RECOVERY WAS EXCLUDED UNDER THE POLICY EXCLUSION FOR LOSS BY POLLUTION AND CONTAMINATION OF ANY KIND WHATSOEVER, WHERE THE DAMAGE OCCURRED FROM SUBMERSION IN WATER IN UTAH LAKE AND FROM CONTAMINATION BY LAKE WATER AND BY PARTICLES OF DIRT AND OTHER DEBRIS IN THE LAKE WATER.

The policy contract states: "This policy does not apply to loss by pollution and contamination of any kind whatsoever." (Exclusion No. 14, R. 13).

The parties stipulated that the aircraft sustained damage in the amount of \$4,839 from submersion in Utah Lake and from contamination by water, particles of dirt and other debris in the water after the aircraft stopped moving under its own power or resulting momentum and the engine was not operating. (Stipulation, para. 1, R. 96. See also Aff't of William H. Greene, para. 9, R. 69).

The exclusion for loss by pollution and contamination should apply to this damage claim. Such an interpretation is within the ordinary and reasonable meaning of the words in the exclusion. 43 Am. Jur. 2d, "Insurance" states:

"Contamination," as used in the coverage or exclusion provisions of a property damage insurance policy, connotes a condition of impurity resulting from mixture or contact with a foreign substance.

Sec. 504 p. 579.

Certainly dirty lake water is a foreign substance to the engine parts and instruments of an airplane.

In American Casualty Co. of Reding, Penn. v. Myrick, 304 F.2d 179 (5th Cir. 1962) the court reversed a jury verdict of coverage and found no coverage because of an exclusion for contamination where ammonia leaked from the cooling system of a storage room and contaminated goods stored in the room. The court found that the clear and obvious meaning of "contamination" meant mixture or contact with a foreign substance. Likewise in the instant case lake water was a foreign substance to the aircraft parts.

In Hi-G Inc. v. St. Paul Fire & Maurine Ins. Co., 283 F.Supp. 211 (D. Mass. 1967) aff'd per curiam, 391 F.2d 924 (1st Cir. 1968), the court held there was no coverage because of the contamination exclusion where oil vapor from an outside source came in contact with the product, small electro-mechanical switching devices. The court held the requirement of the exclusion was met where an undesirable element was introduced into the product from an outside source, amounting to contamination. Again, there is nothing in this requirement which would not apply equally to the instant case.

In McQuade v. Nationwide Mutual Fire Ins. Co., 587 F.Supp. 67 (D. Mass. 1984), the court held that the policy which excluded loss due to contamination did not cover the claim that plaintiff's home was rendered uninhabitable after a termite exterminator applied excessive amounts of chlordane.

None of these cases involve contamination by lake water. However, none of the pollution exclusions in these cases refer specifically to the outside substance involved in each different case. The point is that when terms of an insurance policy are plainly expressed and free from ambiguity, a court should construe them in their usual and ordinary sense. According to that rule, damage to the aircraft by lake water after submersion amounts to contamination and is excluded from coverage.

POINT III.

**ROBERT TROJAN WAS NOT ENTITLED TO RECOVER
UNDER THE POLICY FOR EXPENSES FOR RETRIEVING
HIS AIRCRAFT FROM UTAH LAKE WHERE THE POLICY
CONTRACT DOES NOT PROVIDE FOR ANY SUCH
BENEFIT.**

The cost of retrieving the aircraft from Utah Lake in the amount of \$6,160 should not have been awarded to Mr. Trojan against Southern General because it is not provided in the policy. At page 7 of the policy, paragraph 8 provides that it is the insured's duty to protect the aircraft. (R. 15). More importantly, nowhere does the policy say that the company will pay costs associated with retrieval of the aircraft after an accident.

CONCLUSION

The policy contract is sufficiently clear about what risks Mr. Trojan purchased insurance on. He did not pay any premium for coverage of loss while the engine is operating and while the aircraft is in motion under its own power. The aircraft was completely destroyed in just such an accident. There is no good

reason to distort the plain meaning of the policy contract to provide Mr. Trojan a recovery, as the district court did.

The damage for which Mr. Trojan seeks recovery was caused by pollution and contamination by water, particles of dirt and other debris in the water, which is a loss specifically excluded in the policy.

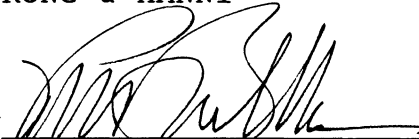
The policy does not provide for payment to the insured for expenses of retrieving the aircraft. There is no ground for implying any such benefit in the insurance contract.

For the above reasons, the court should reverse summary judgment entered for plaintiff/appellee Robert W. Trojan and order that judgment be entered as a matter of law in favor of defendant/appellant Southern General Insurance Company.

DATED this 28 day of December, 1992.

STRONG & HANNI

By



Roger H. Bullock
Attorneys for
Defendant/Appellant

MAILING CERTIFICATE

I hereby certify that four true and correct copies of the foregoing were mailed, first class postage prepaid, this 28 day of December, 1992.

A. Dennis Norton
Camille N. Johnson
SNOW, CHRISTENSEN & MARTINEAU
10 Exchange Place, 11th Floor
Salt Lake City, Utah 84145
Attorney for Plaintiff/
Appellee



ADDENDUM

- A. Insurance Policy (R. 6-18).
- B. Stipulation of the Parties (R. 96-97).
- C. Affidavit of William H. Greene (R. 67-71).

A. Insurance Policy (R. 6-18)

AV-A0-52-75

☒ Southern General Insurance Company ☐ Southern General Underwriters Insurance Company

Marietta, Georgia

Phoenix, Arizona

POLICY DECLARATIONS - PART B

AIRCRAFT POLICY

Item 1	Policy Number	AV-A0-52-75		Previous Policy Number	AV-00-52-75	
Named Insured and Address	Named Insured's Name and Address			Name and Address of Insured's Agent		
	ROBERT W. TROJAN 777 SUNBURST LANE ALPINE, UTAH 84003			WM H ALDERMAN & COMPANY 4851 KELLER SPGS RD #111 DALLAS TX 75248		
Item 2	From: (Mo., Day, Yr.)	To: (Mo., Day, Yr.)	12:01 A.M. Standard Time at the address of the Named Insured as stated within			Broker
Policy Period	10/06/89	10/06/90	777 SUNBURST LANE ALPINE, UTAH 84003			06326

Item 3	LOCATION OF AIRCRAFT: The aircraft will be principally at SALT LAKE CITY, UTAH						
Item 4 Coverage and Limits of Liability	Coverages		Limits of Liability		#1 Premium	#2 Premium	Total
	A. Bodily Injury Liability, Excluding Passengers		\$,000 each person \$,000 each occurrence		\$	\$	\$
	B. Passenger Bodily Injury Liability		\$,000 each person		\$	\$	\$
	C. Property Damage Liability		\$,000 each occurrence		\$	\$	\$
	D. Single Limit B.I. and P.D. Liability which INCLUDES Passengers with limit of Maximum Limit of Liability for all Passengers of		\$ 500 ,000 each occurrence \$ 50 ,000 each person and a \$ 250 ,000 each occurrence		\$ 390.	\$	\$ 390.
	E. Medical Payments Including Crew		\$ each person		\$	\$	\$
			A/C No. 1	Deductibles	A/C No. 2	Deductibles	
	F. All Risks While Not in Motion		\$ 23000.	\$ 500.	\$	\$	\$ 460.
	G. All Risks While in Motion		\$	\$	\$	\$	\$
	Endorsements				\$	\$	\$
				\$	\$	\$	
				TOTAL PREMIUM		\$ 850.	
Item 5	A/C	Make and Model of Aircraft	F.A.A. Number	Year of Manufacture	Pass Cap. Excluding Crew	Type	Engine H.P.
Descr. of Aircraft	1	CESSNA 310 I	N145Y	1964	5	LAND	
	2						
Item 6	PURPOSE(S) OF USE: The aircraft will be used for the purpose(s) indicated by X: (See policy conditions for definitions)						
Use	<input checked="" type="checkbox"/> (a) "Pleasure and Business" <input type="checkbox"/> (b) "Industrial Aid" <input type="checkbox"/> (c) "Limited Commercial" <input type="checkbox"/> (d) "Commercial Ex Instruction Rental" <input type="checkbox"/> (e) "Commercial" <input type="checkbox"/> (f) "Flying Club" <input type="checkbox"/> (g) "Special Uses" - Defined as:						
Item 7	PILOT CLAUSE: Only the following pilot(s) holding valid and effective pilot and medical certificates with ratings as required by the Federal Aviation Administration for the flight involved will operate the aircraft in flight:						
Pilots	SEE ENDORSEMENT NO. 1						
Item 8	HISTORY. Unless otherwise stated herein, NO insurer has cancelled, declined or refused to renew any aircraft issued to the Named Insured. Exception, if any.*						
Item 9	OWNERSHIP. Unless otherwise stated herein and except with respect to bailment, lease, conditional sale, purchase agreement, mortgage or other encumbrance, the Named Insured is the sole owner of the aircraft. Exception, if any.*						
Item 10	LOSS PAYABLE. Loss, if any, under coverages F and G is payable as interest may appear to the Named Insured and*						
Loss Payee							
Premium Finance	Total Premium	Down Payment	No. Payments	Monthly Payment	First Payment Due Date	All monthly payments are due on the same date each month as the first payment.	
	\$	\$		\$			

*Absence of an entry means "NO EXCEPTIONS".

THE INSURANCE HOUSE

Countersigned at SALT LAKE CITY, UT Date 10-18-89 By [Signature]

PART 2: This "DECLARATIONS - PART B" with "POLICY PROVISIONS - PART A" and endorsements, if any, issued to form a part thereof, completes the AIRCRAFT POLICY.

SOUTHERN GENERAL INSURANCE COMPANY
ENDORSEMENT

ENDORSEMENT NO - 01

PAGE 1

THIS ENDORSEMENT EFFECTIVE 12:01AM 10/06/89 , FORMS A PART OF
POLICY NO. AVA05275
ISSUED TO ROBERT W. TROJAN

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

IT IS UNDERSTOOD AND AGREED THAT ITEM 7 OF THE POLICY DECLARATIONS
SHALL BE COMPLETED TO READ AS FOLLOWS:

ONLY THE FOLLOWING PILOT(S) HOLDING VALID AND EFFECTIVE PILOT AND
MEDICAL CERTIFICATES WITH RATINGS AS REQUIRED BY THE FEDERAL AVIATION
ADMINISTRATION FOR THE FLIGHT INVOLVED WILL OPERATE THE AIRCRAFT IN
FLIGHT:

AS RESPECTS: 1964 CESSNA 310 I N145Y PLEASURE AND BUSINESS

THOMAS TROJAN PROVIDED HE HAS A COMMERCIAL PILOT CERTIFICATE
WITH A MULTI ENGINE LAND AND INSTRUMENT RATING AND A MINIMUM OF 1080
TOTAL LOGGED FLYING HOURS OF WHICH AT LEAST 658 HOURS SHALL HAVE
BEEN IN MULTI ENGINE AIRCRAFT, INCLUDING NOT LESS THAN 600 HOURS IN
THE SAME MAKE AND MODEL AIRCRAFT INSURED BY THIS POLICY.

ANY PILOT WHO HAS A PRIVATE OR COMMERCIAL PILOT CERTIFICATE WITH A MULTI
ENGINE LAND AND INSTRUMENT RATING AND WHO HAS A MINIMUM OF 1500 TOTAL
LOGGED FLYING HOURS OF WHICH AT LEAST 500 HOURS SHALL HAVE BEEN IN A
MULTI ENGINE AIRCRAFT, INCLUDING NOT LESS THAN 25 HOURS IN THE SAME
MAKE AND MODEL AIRCRAFT INSURED BY THIS POLICY.

SOUTHERN GENERAL INSURANCE COMPANY

(AV42)

WIND & HAILSTORM DEDUCTIBLE

THIS ENDORSEMENT EFFECTIVE 12:01AM 10/06/89 ,FORMS A PART OF
POLICY NO. AVA05275
ISSUED TO ROBERT W.TROJAN

BY SOUTHERN GENERAL INSURANCE COMPANY, MARIETTA, GEORGIA.

IN CONSIDERATION OF AN ADDITIONAL PREMIUM OF \$ INCL. , IT IS UNDERSTOOD
AND AGREED THAT THE POLICY IS AMENDED AS FOLLOWS:

IN THE EVENT YOUR AIRCRAFT IS NOT HANGARED AT ITS REGULAR HOME AIRPORT,
LOSS, IF ANY HEREUNDER, DUE TO WINDSTORM, CYCLONE, HAIL, SLEET OR SNOW
SHALL BE SUBJECT TO A DEDUCTIBLE OF 10% OF THE AMOUNT OF INSURANCE
APPLICABLE TO THE AIRCRAFT SUBJECT HOWEVER TO A MINIMUM DEDUCTIBLE OF
\$100 AND A MAXIMUM DEDUCTIBLE OF \$250 EACH LOSS.

IF THE INSURED AIRCRAFT IS NOT HANGERED AT ITS REGULAR HOME AIRPORT THE
LIMIT OF OUR LIABILITY, IN THE EVENT OF HAIL, SHALL BE AS FOLLOWS:

- (A) WHERE THE AIRWORTHINESS IS AFFECTED, REPAIRS WILL BE MADE AS SET
FORTH IN THE POLICY SUBJECT TO THE DEDUCTIBLE SET FORTH ABOVE.
- (B) WHERE THE AIRWORTHINESS IS NOT AFFECTED, OUR LIABILITY IS LIMITED TO
REASONABLE EXPENSE FOR RESTORATION OF APPEARANCE OF THE AIRCRAFT, NOT
TO EXCEED 10% OF THE INSURED VALUE, WHICH AMOUNT WILL BE SUBJECT TO A
DEDUCTIBLE OF \$100.

A Stock Company

Southern General Insurance Company

MARIETTA, GEORGIA

AIRCRAFT POLICY

"POLICY PROVISIONS — PART A"

This **"POLICY PROVISIONS — PART A"** along with **"DECLARATIONS PAGE, PART B"** and endorsements, if any, issued to form a part thereof, complete this **AIRCRAFT POLICY**.

Where To Find It In Your Southern General Policy

	Page Number
YOUR PERSONAL POLICY DETAILS	
(OR DECLARATIONS PAGE)	"PART B" or "Page One"
INSURING AGREEMENTS	3
Bodily Injury Excluding Passengers	3
Passenger Bodily Injury	3
Property Damage Liability	3
Single Limit	3
Medical Payments	3
All Risk While Not In Motion	3
All Risk While In Motion	3
Additional Protections	3
INSURING AGREEMENTS (Continued)	4
Automatic Insurance For Newly Acquired Aircraft	4
Temporary Use of Substitute Aircraft	4
Use of Other Aircraft	4
Policy Period, Territory, Purpose of Use	4
EXCLUSIONS	4
DEFINITIONS	5
CONDITIONS	6
Notice of Occurrence	6
Notice of Claim or Suite	6
Medical Reports: Proof and Payment of Claim	6
Limits of Liability	6
Suit Against Us	7
Our Recovery Rights	7
Terms of Policy Conformed to Statute	7
Your Duty When Loss Occurs	7
Deductibles	7
No Benefit To Others	7
Automatic Reinstatement	7
Cooperation of the Insured	7
Inspection and Audit	7
Changes	7
Assignment	7
Cancellation	7
No Flat Cancellation	8
Policy Period	8
Concealment or Fraud	8
Underwriting Information	8

INSURING AGREEMENTS

I COVERAGE "A"

Bodily Injury Excluding Passengers

Under this coverage **we** will pay on **your** behalf all sums which **you** are legally obligated to pay as damages because of **bodily injury** to any person. This does not apply to **passengers**. The injury must be caused by **occurrence** as defined in the Policy. The **occurrence** must arise out of the ownership, maintenance or use of the aircraft.

COVERAGE "B"

Passenger Bodily Injury

Under this coverage **we** will pay on **your** behalf all sums which **you** are legally obligated to pay as damages because of **bodily injury** to any **passenger**, as defined in **your** Policy. The injury must be caused by an **occurrence** as defined in the Policy. The **occurrence** must arise out of the ownership, maintenance or use of the aircraft.

COVERAGE "C"

Property Damage Liability

Under this coverage **we** will pay on **your** behalf all sums which **you** are legally obligated to pay as damages because of injury to or destruction of property of others. The damage must be caused by **occurrence**, as defined in the Policy. The **occurrence** must arise out of the ownership, maintenance or use of the aircraft.

COVERAGE "D"

Single Limit

Under this coverage **we** will pay as **we** would under coverage "A" and "C". **We** may also pay what would be paid under Coverage "B". If **your** Declarations Page shows **passengers** are "included" then coverage "B" also applies. If this shows that **passengers** are "excluded" then coverage "B" is not included. **We** pay subject to the limit of liability shown on **your** Policy.

COVERAGE "E"

Medical Payments

Under this coverage **we** will pay all reasonable expenses from one year after the **occurrence** for necessary medical, dental and funeral expenses for each person who sustains **bodily injury** while in or upon the aircraft. The **bodily injury** must be caused by an **occurrence**. The aircraft must be used by **you** or with **your** permission.

COVERAGE "F"

All Risks While Not In Motion

Under this coverage **we** will pay for direct accidental loss or damage to the aircraft which happens while the engine is not operating and while the aircraft is **not in motion** under its own power. This does not include fire or explosion following motion of the aircraft under its own power when a collision occurs with any object. **Your** Declarations Page shows a deductible which shall apply to all losses under this coverage. The deductible shall not apply, however, to losses by fire, explosion, lightning, theft, robbery or vandalism. If the aircraft is being transported while dismantled, no deductible will apply in case of accident to the conveyance transporting the aircraft.

COVERAGE "G"

All Risks While In Motion

Under this coverage **we** will pay for loss to the aircraft from all accidental causes excluded under Coverage F unless they are excluded elsewhere in **your** Policy.

II ADDITIONAL PROTECTIONS

When **you** purchase **Bodily Injury** and **Property Damage** Liability coverages under this Policy, **we** also provide **you** some additional protections.

1. **We** will defend any suit against **you** for injury, sickness, disease or destruction, even if such suit is groundless, false or fraudulent. **We** may make any investigation or settlement of any claim or suit as **we** see fit. **We** will pay all premiums on bonds to release attachments for an amount not in excess of the applicable limit of liability of this Policy. **We** will pay all premiums on appeal bonds required in any such defended suit. **We** will pay the cost of bail bonds required of **you** in the event of an **occurrence** or violation of the law or regulation for civil aviation during the Policy Period. **We** will not pay more than \$100. per bail bond. **We** will not apply for nor furnish any such bonds.
2. **We** will pay expenses incurred by **you** for such immediate medical relief to others as shall be imperative at the time of the **occurrence**.
3. **We** will reimburse **you** for all reasonable expenses incurred at **our** request but **we** will not pay for loss of earnings.
4. Regardless of any provision in the Policy, **we** will not defend:
 - (a) Any claim excluded by Exclusions 12, 13, 14, 15, or 16, and
 - (b) Only limited amounts of "combined claims." A "combined claim" is a claim normally covered by **your** Policy when combined with any claims excluded by Exclusions 12, 13, 14, 15 or 16. **We** will reimburse **you** for that portion of the following items which may be allocated to the claim or claims covered by this Policy. This is subject to proof of loss and the limits of the Policy:
 - (1) Damages awarded against **you**, and
 - (2) Defense fees and expenses incurred by **you**.

The amounts incurred under this insuring agreement, plus settlements of claims and suits are subject to the applicable limit of liability of this Policy.

0011

INSURING AGREEMENTS

III Automatic Insurance For Newly Acquired Aircraft

1. If **you** acquire ownership of another aircraft and **you** notify **us** during the Policy Period and within thirty (30) days after **you** acquire such ownership **we** will cover it and **your** use of it if it replaces an aircraft on **your** Policy or if it is an additional aircraft and **we** insure all of the aircraft **you** own. **You** must pay any additional premium due.
2. We will provide **you** with:
The same aircraft physical damage coverage under Coverages F and G at the same deductibles as **we** did on the replaced aircraft or as **we** do on the aircraft with the highest limit of liability shown on **your** Policy if **you** get an additional aircraft. But, the maximum **we** will pay for physical damage is the amount **you** paid for the newly acquired aircraft.

IV Temporary Use of Substitute Aircraft

If **you** temporarily fly another aircraft because **yours** is damaged or being repaired **we** will provide **you** with the same coverage **you** have purchased for **your** liability under Coverages A, B, C and D. **We** will also provide **you** with the same coverages **you** may have purchased under Coverage E, Medical Payments. The exact coverage and limits of liability will be based on the aircraft of the greatest seating capacity shown on **your** Policy. **We** will not cover any legal responsibility of the owner of the substitute aircraft or of his agents or employees or **your** legal responsibility if **you** own part of the substitute aircraft. **We** will not pay for the loss of or damage to the substitute aircraft.

V Use of Other Aircraft

If **you** are an individual and the only Named Insured shown in Item I on the Declarations Page and **you** fly another aircraft, **we** will provide **you** with the same coverage for **your** liability to others as **you** have purchased under Coverages A, B, C and D. The coverage **we** will provide will be the same coverage **you** have purchased for the aircraft with the greatest seating capacity shown on **your** Policy, but **we** will not cover **you** if **you** own a part of the other aircraft or if it is flown regularly or frequently by **you**. **We** will not pay for any loss of or damage to such other aircraft.

What **we** will not cover:

In addition to those persons and things which **we** will not cover as shown in other parts of **your** Policy, **we** will not cover any newly acquired aircraft or any substitute aircraft or other aircraft or its use:

1. unless Item 7 of the Policy "Pilot Clause" is completely complied with;
2. unless such aircraft is licensed under a standard airworthiness certificate issued by the Federal Aviation Administration;
3. if it is a multi-engine aircraft unless an aircraft already covered by **your** Policy is a multi-engine aircraft;
4. if it is a turbine powered aircraft unless an aircraft covered by **your** Policy is a turbine powered aircraft;
5. if it is a rotorcraft unless an aircraft covered by **your** Policy is a rotorcraft;
6. if it is a seaplane or amphibian unless **your** Policy already covers a seaplane or amphibian;
7. if **you** have other valid and collectible insurance against any loss of such other aircraft;
8. except during the Policy Period, and
9. unless **you** shall pay an additional premium required because of the application of the insurance to such other aircraft.

VI Policy Period, Territory, Purpose of Use

This Policy applies only to **occurrences** and to loss during the Policy Period as shown on the Declarations Page. This Policy applies only while the aircraft is within the Continental United States of America, excluding Alaska and Hawaii, or while in Canada or Mexico and while it is owned, maintained and used for the purposes stated on Item 6 of the Declarations Page.

EXCLUSIONS

This Policy does not apply:

1. To any liability **you** assume under any agreement or to any loss or damage to the aircraft for which **you** have assumed the liability of others.
2. to any **occurrence** or to any loss or damage occurring while the aircraft is operated in flight by other than those authorized under Item 7 of the Declarations.
3. to any **occurrence** or to any loss or damage **you** intentionally cause or direct to be caused.
4. to any Insured (a) who operates or permits the aircraft to be operated in any manner which requires a special permit or waiver from the Federal Aviation Administration, whether granted or not, unless this Policy is specifically endorsed to include such operation. (b) who operates or permits the operation of the aircraft, while in flight, unless its airworthiness certificate is in full force and effect. nor to any aircraft whose airworthiness certificate has been converted to the restricted or experimental category; (c) who operates or permits the aircraft to be operated for an unlawful purpose or any purpose other than as specified in the Declarations.
5. under Coverages A, B or D to **bodily injury**, to sickness, disease or death of any employee of **yours** while engaged in the duties of his employment or to any obligation for which **you** or any company as **your** insurer may be held liable under any Workmen's Compensation Law.
6. under Coverages C or D to injury to or destruction of property owned, rented, occupied or used in **your** care, custody or control or carried in or upon any "aircraft" with respect to which insurance is afforded by this Policy.
7. to loss due to conversion, embezzlement or secretion by any person in possession of the "aircraft" under any lease, conditional sale, purchase agreement, mortgage or other encumbrance.

8. to loss due and confined to wear and tear, deterioration, or mechanical, structural or electrical failure.
9. if the aircraft is used in any unlawful act.
10. to loss due to declared or undeclared war, civil war, riot or revolt.
11. under Coverages A, B, C and D to any person who is a **named insured**.
12. to any nuclear energy liability loss.
13. to loss by noise; (whether audible to the human ear or not), vibration, sonic boom, and any phenomena associated herewith.
14. to loss by pollution and contamination of any kind whatsoever.
15. to loss by electrical and electromagnetic interference.
16. to loss occasioned by interference with the use of property unless caused by or resulting in a crash, fire, explosion or collision or a recorded in-flight emergency causing abnormal aircraft operation.
17. when the aircraft is being used for sport parachuting, **we** shall have no liability under the Policy for **bodily injury**, sickness, disease including death resulting therefrom, sustained by any **passenger**. Further, **we** shall have no liability under this Policy for **bodily injury**, sickness, disease, including death, or **property damage** resulting from parachuting or attempted parachuting.

DEFINITIONS

Here are some terms used in **your** Policy. If **you** will read these **definitions** it will help **you** understand **your** insurance.

1. **Accident.** The term "Accident" means a sudden event during the policy Period which is neither expected nor intended by **you**.
2. **Aircraft.** The word "Aircraft" means any aircraft covered by **your** Policy and includes the airframe, landing gear and all accessories.
3. **Bodily Injury.** The term "Bodily Injury" means physical injury to a person including sickness, disease or death.
4. **Commercial.** The term "Commercial" is defined as including all of the uses permitted under the definition of "Limited Commercial" plus the uses allowed under the definition "Commercial Ex Instruction Rental."
5. **Commercial EX Instruction Rental.** The term "Commercial Ex Instruction Rental" means all of the uses permitted in the definition of "Industrial Aid" and also includes use of the aircraft for transportation of **passengers** and or freight for hire but does not include any use of the aircraft for instruction or for rental to others.
6. **FAA.** The FAA means the "Federal Aviation Administration" or any duly constituted authority of any other country in which this Policy may apply, which authority has jurisdiction over civil aviation.
7. **Fire.** The word "Fire" means fire, lightning and explosion.
8. **Flying Club.** The term "Flying Club" means a group of persons, or an organization, or a corporation which owns or leases the aircraft. The purpose of this ownership must be for the owners or stockholders to use the aircraft for their personal business and pleasure use, excluding any operation for which a charge is made. A membership fee or pro-rata sharing between **passengers** of the actual expense of fuel and oil during operations of the aircraft on a specific flight shall not be deemed a charge. A member shall be defined as any person having an ownership interest in the flying club, or owning stock in the corporation for the primary purpose of sharing aircraft expenses with others.
9. **Industrial Aid.** The term "Industrial Aid" means all the uses allowed under the term "Pleasure and Business" plus transportation of executives, employees, guests and customers but excluding any operation for which a charge is made.
10. **In Motion.** The term "In Motion" means while the aircraft is moving under its own power or resulting momentum or while the engine is starting or running.
11. **Insured.** The word "Insured" used in the Policy for Coverages A, B, C and D, is the "Named Insured" shown on the Declarations. This also includes any person while using or riding in the **aircraft** and any person or organization legally responsible for its use, provided the actual use is with **your** permission. This does not apply to any employee with respect to **bodily injury** of another employee of the same employer injured in the course of such employment. This does not apply to any person or organization or to any agent or employee thereof (other than an employee of the Named Insured while acting in the course of his employment by the Named Insured) engaged in the manufacture or sale of aircraft or aircraft parts, nor in the operation of an aircraft repair shop, airport hangar, aircraft sales agency, aircraft rental service, commercial flying service or flying school with respect to any **occurrence** arising out of such manufacture, sale or operations.
12. **Limited Commercial.** The term "Limited Commercial" means permitting all of the uses as defined in "Industrial Aid" plus allowing student instruction and rental to pilots for pleasure and business use only, but excluding **passenger** carrying for hire or reward.
13. **Not In Motion.** The term "Not In Motion" means the time during which the aircraft is not "**in motion**"
14. **Occurrence.** "Occurrence" means a sudden event or repeated exposure to conditions, involving the aircraft during the Policy Period, neither expected nor intended by **you**, that causes **bodily injury** or **property damage** to others. All **bodily injury** or **property damage** resulting from the same general conditions will be considered to be caused by one **occurrence**.
15. **Passenger.** A "Passenger" means any person while in, on or entering the aircraft for the purpose of flying therein, or while alighting therefrom.
16. **Pleasure And Business.** The term "Pleasure and Business" means Personal and Pleasure Use and use in direct connection with **your** business, but not any operation for which a charge is made.
17. **Powerline Or Pipeline Patrol.** The term "Powerline or Pipeline Patrol" in this Policy means inspection or observation of any powerline or pipeline in connection with forestry operations.
18. **Property Damage.** The term "Property Damage" means damage to or destruction of property including any loss that results which prevents the use of the aircraft. It does not include damage to or destruction of the aircraft or any other property **you** or anyone **we** protect under **your** Policy owns, is in charge of or transports.

0013

19. **Sales Demonstration.** The term "Sales Demonstration" means a flight, at no charge, for the sole purpose of demonstrating the aircraft to a prospective purchaser.
On any such flight, the prospective purchaser must be accompanied by you or a pilot who is employed by **you** and the pilot must meet the qualifications called for in Item 7 of **your** Declarations.
20. **Theft.** The word "Theft" means theft, robbery, larceny and pilferage, including damage done by thieves but it does not include embezzlement or secretion.
21. **"Us", "We" and "Our"** means the Southern General Insurance Company of Marietta, Georgia.
22. **"You" and "Your"** refer to the "Named Insured" shown on the Declarations, but this does not apply to any person operating the aircraft under the terms of any rental agreement or training program which provides any remuneration to **you** for the use of said aircraft.

CONDITIONS

(Unless otherwise noted, conditions apply to all coverages)

1. **Notice Of Occurrence - Coverages A, B, C, D and E.** When an **occurrence** happens **you** must tell **us** as soon as practicable, in writing. Please give **us** all the information necessary to identify **you** and such information as **you** can obtain about the time, place and details of the **occurrence**. **We** also need the names and addresses of the injured and of any available witnesses, including the name and certificate number of the pilot operating the aircraft at the time of the **occurrence**.
2. **Notice Of Claim Or Suit - Coverage A, B, C and D.** If a claim is made or a suit is brought against **you**, **you** must immediately forward to **us** every demand, notice, summons or other process received by **you**.
3. **Medical Reports: Proof And Payment Of Claim.** **You** must send **us**, as soon as practicable, written proof of claim, under oath if required. **You** must upon **our** request, execute authorization to enable **us** to obtain medical reports and copies of records. The injured person must submit to physical examination by a physician of **our** choice and as often as **we** may reasonably require.
We may pay the injured person or any person or organization rendering the services needed and such payment will reduce the amount payable hereunder for such injury.

Any payment **we** make hereunder will not constitute admission of liability on **your** part or **our** part.

4. **Limits Of Liability.** The limit of liability shown on **your** Declarations for Coverages C and D is **our** limit of liability for all damages arising out of one **occurrence**.

The limit of liability stated in the Declarations for Coverages A and B for "each person" is the limit of **our** liability for all damages, arising out of **bodily injury**, sickness or disease, including death resulting therefrom, sustained by one person in any one **occurrence**. This includes damages for care and loss of services.

The limit of liability shown in **your** Declaration for Coverage A for "each occurrence" is subject to the provisions above for each person. It is also the total limit of **our** liability for all damages, including damages for care and loss of services, arising out of **bodily injury**, sickness or disease and sustained by two or more persons in any one **occurrence**. This includes death at any time resulting therefrom. The limit of **our** liability under Coverage B for all damages, including damages for care and loss of services, arising out of **bodily injury**, sickness or disease, including death at any time resulting therefrom, sustained by two or more persons in any one **occurrence** shall not exceed the lesser of the limit for "each person" shown in the Declarations for Coverage B multiplied by the number of passengers carried at the time of **occurrence** or the limit for "each person" multiplied by the number shown for "Pass. Cap. Ex. Crew" shown on the Declarations for the aircraft, whichever is the smallest.

The limit of liability stated in the Declarations for Coverage E for "each person" is **our** limit of liability. This is for all expenses incurred by or on behalf of each person who sustains **bodily injury**, including death resulting therefrom, in any one **occurrence**.

However, the most **we** will pay for **bodily injury** to **your** spouse or the spouse of any **insured**, will be 25% of the limit for "each person" but not more than \$25,000. Further, the most **we** will pay for **bodily injury** to **your** parent or child or the parent or child of any **insured** will be 12½% of the limit for "each person" but not more than \$12,500.

In the event of total loss, **we** will pay **you** the amount of insurance shown under Declarations for Coverages F and G less any deductibles. **We** may pay for a loss in money. **We** may also repair or replace damaged parts with parts of like kind and quality. Before **we** pay for or replace missing property, **we** may return it to **you** with payment of physical damage. If **your** aircraft is stolen or disappears and is not found, **we** will pay for the loss after sixty (60) days.

When **we** pay for repairs or replace damaged parts, **we** will also pay for transporting **your** aircraft or the parts necessary to the place of repair. After repair, **we** will pay to return the aircraft to the place of loss or to **your** home airport, whichever is closer. However, **we** will not pay transportation costs which exceed 15% of the amount of loss when the loss occurs outside the contiguous United States. Transporting will be done by the least costly reasonable means.

We may, at **our** option, pay **our** limit of liability. Then the aircraft becomes **ours**. However, **you** cannot abandon any property to **us** without **our** prior approval.

When **we** pay a loss under Coverage F or G for **our** limit of liability the salvage will be **ours**. **You** must give **us** clear title to salvage on or before the time **we** pay for the loss.

You or **we** may demand appraisal of the amount of loss in case of a disagreement. Each will choose and pay a competent and disinterested appraiser. Each will share other appraisal costs equally. The appraisers will pick a third person to settle differences. Each appraiser will separately state his opinion of the amount of loss in his opinion and an award agreed to in writing by two of these appraisers will be the amount of the loss.

A loss payment made under Coverages F or G will be made payable to **you** and to any lienholder shown under Item 10 of the Declarations.

We will pay no more than the limit of liability shown on the Declarations Page for "each person" injured in one **occurrence**. The number of **our** policies, or of **our** Insureds or aircraft, claims or claimants does not increase this limit. The term "Insured" is used severally and not collectively.

When there is other insurance for a loss covered by Coverages F and G, **we** will pay that part of the loss that **our** limit of liability bears to the total limits of all insurance.

5. **Suit Against Us - Coverages A, B, C and D.** **We** may not be sued unless there has been full compliance with all the terms of this Policy. Under Coverage A, no one has the right to sue **us** until all of **your** duties or the duty of any **insured** to pay is finally decided by a court. **Your** bankruptcy or insolvency or the bankruptcy or insolvency of **your** estate does not relieve **us** of **our** obligations under this Policy.
6. **Our Recovery Rights.** If **we** pay under this Policy **we** have all rights of recovery that **you** would normally have. **You** must do all that is needed to help **us** exercise these rights and **you** cannot do anything to take away these rights of **ours**. If **you** contract with a federal, state or municipal authority to use its airport and by that contract **you** take away **our** rights, **your** insurance is still valid.
7. **Terms Of Policy Conformed To Statute.** If the terms of **your** Policy conflict with **your** state law, they are amended to conform to that law. **Our** contract with **you** is for the coverage and limits of liability shown in this Policy. If **we** have to make any payments which **we** would not otherwise have had to make except for some financial responsibility law, then **you** agree to reimburse **us** for any payment made over and above the limits of liability of **your** Policy.
8. **Your Duty When Loss Occurs - Coverages F and G.**
 - (a) When **you** learn of a loss, it is **your** duty to protect the aircraft even if the loss is not covered by this insurance. Any additional loss due to **your** failure to protect will not be covered by **your** Policy. If the loss is covered by **your** Policy, any reasonable expense **you** may incur in affording such protection will be considered as part of the loss under **your** Policy. The maximum amount of **our** liability, however, will not exceed the limit of liability as shown in the Policy and as limited under "Limits of Liability."
 - (b) As soon as practicable **you** must tell **us** of the loss. In the event of theft **you** must tell the police. **You** cannot, except at **your** own cost, offer to pay any reward for recovery of the aircraft or parts.
 - ✓ (c) You must file a proof of loss with **us** within sixty (60) days after the loss unless **we** extend the time. **We** will supply **you** with the proof of loss form. **You** must also tell **us** the name and certificate number of the pilot operating the **aircraft** at the time of the loss.
 - (d) If and when **we** ask **you**, **you** must exhibit the damaged property to **us** and submit to examination under oath by anybody **we** designate. **You** must also show **us** any pertinent records and sales invoices, or certified copies if originals are lost, permitting copies to be made. All this must be done at reasonable times and places as **we** designate.
9. **Deductibles - Coverages F and G.** The amount of the deductibles shown in the Declarations shall be deducted from the amount of each loss otherwise payable under this Policy.
10. **No Benefit To Others - Coverages F and G.** This insurance will not inure to the benefit of others. This coverage is for **your** benefit alone.
11. **Automatic Reinstatement - Coverages F and G.** When **you** have a loss, whether or not it is covered by this Policy, the amount of insurance on **your** aircraft is reduced as of the date of the loss by the amount of such loss. Such reduced value will continue until repairs are commenced and then the amount of insurance will automatically be increased by the value of the completed repairs. When all repairs are completed the amount of insurance will be fully reinstated unless the Policy has expired or been cancelled.
12. **Cooperation Of The Insured.** Except for Coverage E, **you** must cooperate with **us** and, upon **our** request, attend all hearings and trials. **You** must also assist in effecting settlements, securing and giving evidence, and obtaining the attendance of witnesses in the conduct of suits.

You shall not, except at **your** own cost, make any voluntary payment or assume any obligation or incur any expense. This does not include expense for immediate medical and surgical relief to others which **you** think imperative at the time of an **occurrence**.
13. **Inspection and Audit.** **We** may inspect **your** aircraft and any of **your** records pertaining thereto during the Policy Period or within one (1) year thereafter.
14. **Changes.** No changes may be made to this Policy except by an endorsement issued by **us**. This must be in writing. No notice to any agent or knowledge possessed by any agent or by any other person will waive or change any part of this Policy or estop **us** from asserting **our** rights under this Policy.
15. **Assignment.** This is **your** Policy. **You** may not transfer any of the rights hereunder to others without **our** express written endorsement. If **you** die, the policyholder will become (a) anyone who has custody of **your** aircraft until a legal agent is named; and (b) **your** legal agent while carrying out his duties.
16. **Cancellation.** **You** may cancel **your** Policy by mailing **us** a written notice telling **us** the future date cancellation is to be effective. If a lienholder is shown on **your** Policy, **we** will mail written notice to the lienholder at least ten (10) days prior to cancellation of the lienholder's interest in the Policy. **We** will compute the return premium for cancellation from the date **our** liability stops under the Policy.

We can cancel **your** Policy at any time by giving **you** and **your** lienholder at least ten (10) days written notice prior to cancellation, except when more notice is required by law.

This notice will be sent to **you** at **your** address on this Policy. Proof that **we** mailed this notice to **you** by first class mail shall be sufficient proof of cancellation.

If **you** cancel this Policy any time within one year after the "from" date shown on **your** Declarations Page, **your** unearned premium will be returned to **you** on a short rate basis. If **we** cancel this Policy, the return premium will be calculated on a pro rata basis. All return premium will be subject to any "minimum earned premium" shown on this Policy. Short rate cancellation means that **we** keep premium for the period of time **you** were insured, plus a percentage charge to cover the expense of cancellation. Pro rata cancellation means that **we** keep premium only for the period of time **you** were insured.

0015

17. **No Flat Cancell.** n. This Policy cannot be cancelled after inception date without an earned premium being due.
18. **Policy Period.** This Policy applies only to loss which occurs during the Policy Period which begins with the "from" date and ends on the "to" date shown on the Declarations.
19. **Concealment or Fraud.** We do not provide coverage if **you** have intentionally concealed or misrepresented any material fact or circumstance relating to this insurance. **We** have issued this Policy in complete reliance upon the application **you** signed. By accepting this Policy, **you** agree that the statements in the Declarations are **your** agreements and representations. **You** further warrant that the statements **you** have made on the application **you** signed are true and complete.
20. **Underwriting Information.** As part of **our** underwriting procedure, a routine inquiry may be made with outside sources to give **us** information concerning **your** character, general reputation, personal characteristics and mode of living. If **you** send **us** a written request, additional information as to the nature and scope of this report, if one is made, will be provided **you**.

The President and Secretary of Southern General Insurance Company have signed this Policy and it is countersigned on the Declarations Page by an Authorized Representative.



Secretary



President

NOTICE OF INSURANCE INFORMATION PRACTICES — GEORGIA

This notice only applies to you, as our **APPLICANT** or **POLICYHOLDER**, if you are an **INDIVIDUAL** and a resident of Georgia and as the subject of **PERSONAL INFORMATION** or **PRIVILEGED INFORMATION** we receive or maintain on you because of an **INSURANCE TRANSACTION**.

This notice is furnished you by US, also on behalf of your **AGENT** who represented you in the purchase of the policy to which this notice is attached or who represented you in making application for insurance. The words and terms printed in bold face type in this notice are described on Page 9.

We may make a routine inquiry of an **INSURANCE SUPPORT ORGANIZATION** that may give us an **INVESTIGATIVE CONSUMER REPORT** providing applicable **PERSONAL INFORMATION** or **PRIVILEGED INFORMATION** concerning, among other things, your character, general reputation, personal characteristics, mode of living and your past insurance claims.

They may attempt to gather this information from you, your neighbors, friends or associates or others, or from public records. We may also wish to take, or have them take, photos of your home, mobile home, plane, or vehicle, whichever we may be asked to insure, to help us determine the value and condition of such property.

You have the right to be interviewed in connection with the preparation of this **INVESTIGATIVE CONSUMER REPORT**. If you wish to be interviewed, please tell us and we'll institute reasonable procedures to conduct a personal interview. We may also check public records ourselves, direct.

If you submit a **written** request to us (and properly identify yourself) for access to recorded **PERSONAL INFORMATION** we have, which you reasonably describe in writing and which is reasonably retrievable by us, we'll tell you about such **PERSONAL INFORMATION** and its source, if we know it, and if you wish, we'll let you see a copy in person or we'll mail it to you and also give you information about how you can request correction, amendment or deletion of recorded **PERSONAL INFORMATION**. Certain information we will not be required to give you such as, but not necessarily limited to, **PERSONAL INFORMATION** or **PRIVILEGED INFORMATION** about you that relates to and is collected in connection with or in reasonable anticipation of a claim or civil or criminal proceeding involving you.

We will charge you a reasonable fee for this information and will ask you to please pay this fee in advance.

THE INSURANCE HOUSE, INC. and the SOUTHERN GENERAL INSURANCE COMPANY or any other insurance company represented by THE INSURANCE HOUSE, INC. or your **AGENT** and his staff may, without your prior approval, disclose each to the other any **PERSONAL INFORMATION** or **PRIVILEGED INFORMATION** collected or maintained on you for the purpose of rating your insurance properly or for determining your acceptability or any **PERSONAL INFORMATION** or **PRIVILEGED INFORMATION** collected or maintained in connection with any claim for benefits under your insurance. Further, we may furnish this information to those persons who perform a business, professional or insurance function for us or for your **AGENT** or to insurance investigators and **INSURANCE SUPPORT ORGANIZATIONS** or other insurance companies in order to perform their function in regard to an **INSURANCE TRANSACTION** involving you or to independent claims adjusters or our **AFFILIATES**. If required, we may have to furnish such information to law enforcement bodies, to state insurance departments or other legal bodies. Further, any information from a report prepared by an **INSURANCE SUPPORT ORGANIZATION** may be retained by the **INSURANCE SUPPORT ORGANIZATION** and disclosed to other persons by them.

If we are responsible for **DECLINATION OF INSURANCE COVERAGE**, or for **TERMINATION OF YOUR INSURANCE COVERAGE** or if you are charged a higher rate for this insurance on the basis of information which differs from that you gave us, or if your **AGENT** does not place your insurance with an insurance company he represents after you have asked your **AGENT** to place it with that company, or if this insurance is being placed by your **AGENT** through THE INSURANCE HOUSE with SOUTHERN GENERAL INSURANCE COMPANY as a **RESIDUAL MARKET MECHANISM** or as a market for non-standard risks (SOUTHERN GENERAL INSURANCE COMPANY insures standard as well as non-standard business) or if this insurance is being placed through us by your **AGENT** in one of the **RESIDUAL MARKET MECHANISMS** or one of the other non-standard risk markets or in one of the other **UNAUTHORIZED INSURERS** represented by THE INSURANCE HOUSE, INC. and you don't know the reason or reasons for this decision, we'll give you the specific reason or reasons, as required by law, if you'll send us a **written** request, signed by you.

0016

DEFINITIONS

INSURANCE INFORMATION PRACTICES

"Affiliate" or "affiliated" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person.

"Agent" means any agent, broker, subagent, counselor, adjuster, solicitor, or service representative as defined in Code Sections 33-23-1 and 33-23-40.

"Applicant" means any person who seeks to contract for insurance coverage other than a person seeking insurance coverage that is not individually underwritten.

"Declination of insurance coverage" means a denial, in whole or in part, by an insurance institution or agent of requested insurance coverage.

"Individual" means any natural person who:

- a. In the case of property or casualty insurance, is a past, present, or proposed named insured or certificate holder;
- b. Is a past, present, or proposed policyowner;
- c. Is a past or present applicant;
- d. Is a past or present claimant; or
- e. Derived, derives, or is proposed to derive insurance coverage under an insurance policy or certificate subject to this chapter.

"Insurance-support organization" means:

- a. Any person who regularly engages, in whole or in part, in the practice of assembling or collecting information about natural persons for the primary purpose of providing the information to an insurance institution or agent for insurance transactions, including:
 1. The furnishing of consumer reports or investigative consumer reports to an insurance institution or agent for use in connection with an insurance transaction; or
 2. The collection of personal information from insurance institutions, agents, or other insurance-support organizations for the purpose of detecting or preventing fraud, material misrepresentation, or material nondisclosure in connection with insurance underwriting or insurance claim activity.
- b. Notwithstanding subparagraph (a) above, the following persons shall not be considered "insurance-support organizations" for purposes of this notice: agents, government institutions, insurance institutions, medical care institutions, and medical professionals.

"Insurance transaction" means any transaction involving insurance primarily for personal, family, or household needs rather than business or professional needs which entails:

- a. The individual determination of an individual's eligibility for an insurance coverage, benefit, or payment; or
- b. The servicing of an insurance application, policy, contract, or certificate.

"Investigative consumer report" means a consumer report or portion thereof in which information about a natural person's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with the person's neighbors, friends, associates, acquaintances, or others who may have knowledge concerning such items of information.

"Personal information" means any individually identifiable information gathered in connection with an insurance transaction from which judgments can be made about an individual's character, habits, avocations, finances, occupation, general reputation, credit health, or any other personal characteristics. "Personal information" does not include an individual's name, address, and age when no other underwriting information is gathered on that individual nor does it include any **"privileged information"**.

"Policyholder" means any person who:

- a. In the case of individual property or casualty insurance, is a present named insured.

"Privileged information" means any individually identifiable information that:

- a. Relates to a claim for insurance benefits or a civil or criminal proceeding involving an individual; and
- b. Is collected in connection with or in reasonable anticipation of a claim for insurance benefits or civil or criminal proceeding involving an individual;

provided, however, information otherwise meeting the requirements of this subsection shall nevertheless be considered **"personal information"** if it is disclosed in violation of Code Section 33-39-14.

"Residual market mechanism" means an association, organization, or other entity defined or described in Code Sections 33-9-7, 33-9-8, and 33-9-10.

"Termination of insurance coverage" or "termination of an insurance policy" means either a cancellation or nonrenewal of an insurance policy, in whole or in part, for any reason other than the failure to pay a premium as required by the policy.

"Unauthorized insurer" means an insurance institution that has not been granted a certificate of authority by the Commissioner to transact the business of insurance in this state.

MISSOURI AMENDMENT ENDORSEMENT

If you are shown in the Declarations as a Missouri resident, Item 16 of this policy "cancellation" is amended to read as follows:

You may cancel **your** policy by mailing **us** a written notice telling **us** the future date cancellation is to be effective. If a lienholder is shown on **your** policy, **we** will mail written notice to the lienholder at least ten (10) days prior to cancellation of the lienholder's interest in the policy. **We** will compute their return premium cancellation from the date **our** liability stops under the policy.

We can cancel **your** policy at any time by giving **you** and your lienholder at least sixty (60) days written notice prior to cancellation, except in case of nonpayment where **we** may give **you** ten (10) days notice.

If **you** cancel this policy at any time within one year after the "from" date shown on **your** Declaration Page, **your** unearned premium will be returned to **you** on a short rate basis. If **we** cancel this policy, the return premium will be calculated on a pro rata basis. All return premium will be subject to any "minimum earned premium" shown on this policy. Short rate cancellation means that **we** keep the premium for the period of time **you** were insured, plus a percentage charge to cover the expense of cancellation. Pro rata cancellation means that **we** keep premium only for the period of time **you** were insured.

Endorsement AV67

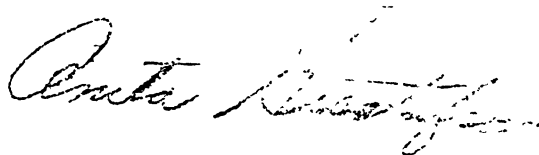
UTAH AMENDMENT ENDORSEMENT

If you are shown in the Declarations as a Utah resident, then Condition 8 of your policy is amended by adding Paragraph (e):

- (e) failure to give any notice or file any proof of loss required by the policy within the time specified in the policy does not invalidate a claim made by the insured, if the insured shows that it was not reasonably possible to give the notice or file the proof of loss within the prescribed time and that notice was given or proof of loss filed as soon as reasonably possible.

B. Stipulation of the Parties (R. 96-97)

A. DENNIS NORTON (A2425)
CAMILLE N. JOHNSON (A5495)
SNOW, CHRISTENSEN & MARTINEAU
Attorneys for Plaintiff
10 Exchange Place, Eleventh Floor
P. O. Box 45000
Salt Lake City, Utah 84145
Telephone: (801) 521-9000



IN THE THIRD JUDICIAL DISTRICT COURT OF SALT LAKE COUNTY
STATE OF UTAH

ROBERT W. TROJAN,

Plaintiff,

STIPULATION

v.

SOUTHERN GENERAL INSURANCE
COMPANY,

Civil No. 900-900481CN

Defendant.

Judge James S. Sawaya

Plaintiff, Robert W. Trojan, by and through his counsel of record, and defendant, Southern General Insurance Company, by and through its counsel of record hereby stipulate to the amount of damages and agree as follows:

1. That the aircraft owned by Robert W. Trojan and insured by Southern General Insurance Company sustained damage in the amount of \$4,839.00 from submersion in Utah Lake and from contamination by water, particles of dirt and other debris in the water after the aircraft stopped moving under its own power or resulting momentum and the engine was not operating.

2. That the cost of retrieving the aircraft from Utah Lake was \$6,160.00.

3. That if William H. Greene were called to testify before this court he would testify as set forth in his affidavit of June 6, 1990, attached hereto.

4. Robert W. Trojan sold the salvage of the aircraft for the reasonable value of \$3,200.

DATED this 26 day of May, 1991.

STRONG & HANNI

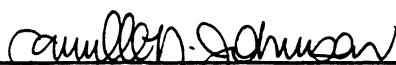
By


Roger Bullock
Counsel for Southern General
Insurance Company

DATED this 22nd day of May, 1991.

SNOW, CHRISTENSEN & MARTINEAU

By


A. Dennis Norton
Camille N. Johnson
Counsel for Robert W. Trojan

C. Affidavit of William H. Greene (R. 67-71)

ROGER H. BULLOCK #485
STRONG & HANNI
Attorney for Defendant
600 Boston Building
Salt Lake City, Utah 84111
Telephone: (801) 532-7080

FILED
DISTRICT COURT

JUN 12 3 35 PM '90

THIS CASE
BY Chris H. Hutton
DISTRICT CLERK

IN THE THIRD JUDICIAL DISTRICT COURT OF SALT LAKE COUNTY
STATE OF UTAH

ROBERT W. TROJAN,
Plaintiff,

vs.

SOUTHERN GENERAL INSURANCE
COMPANY,
Defendant.

AFFIDAVIT OF
WILLIAM H. GREENE

Civil No. 900-900481CN

Judge James S. Sawaya

STATE OF UTAH)
) :ss.
COUNTY OF SALT LAKE)

William H. Greene having been duly sworn on oath deposes
and says:

1. I am director of maintenance for Debron Air Inc.
located at Salt Lake Airport No. 2, Salt Lake County, Utah.

2. I am responsible for all work performed at this facil-
ity involving repair, overhaul, modification, and inspection of
aircraft. I am responsible for all FAA record keeping at this
facility.

3. I hold a current FAA air frame and power plant license
with an inspection authorization.

4. My regular duties include determining the reasonable, ordinary, and necessary repairs and cost of repairs to air frame and engine components of small aircraft, including Cessna 310 aircraft. I am familiar with the ordinary and necessary costs of repairs and replacement parts for this make and model of aircraft in this community.

5. I investigated the accident of November 9, 1989, involving Robert W. Trojan's 1964 Cessna 310I aircraft FAA registration number N145Y. In my investigation I examined the first status report of Mountain West Claims Service with respect to this accident, newspaper articles about the accident, the transcript of a recorded interview with witness James Sorensen, 19 photographs of the damaged aircraft, and 9 photographs of the salvage operation on the damaged aircraft. I contacted the buyer of the salvage on the aircraft to attempt to inspect the wreckage personally, but he advised he had already sold the aircraft for salvage and the wreckage was no longer available for inspection. The investigation I performed is normal and customary to determine the damages to the aircraft where the wreckage is no longer available for firsthand inspection. The materials I reviewed and the information obtained by me provided a proper and sufficient foundation for my opinion.

6. The average retail market price of this aircraft in good serviceable condition before the accident was \$25,875.

7. The reasonable cost of repairs for damage incurred to this aircraft while the aircraft was moving under its own power or

resulting momentum in the accident of November 9, 1989 was \$34,500.

8. In addition, I suspect a substantial amount of further hidden damage occurred also while the aircraft was moving under its own power or resulting momentum, in the approximate amount of \$5,000 to \$10,000, but I was unable to confirm such additional damage with the same degree of certainty as the damage amount in the proceeding paragraph.

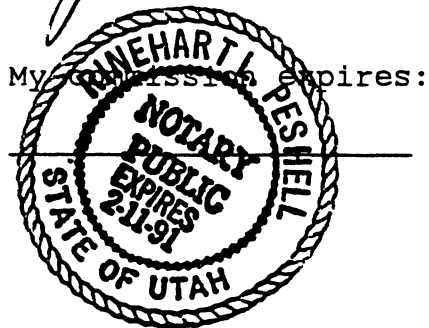
9. After the aircraft stopped moving under its own power or resulting momentum, it undoubtedly sustained additional damage from submersion in water and from contamination by water and by particles of dirt and other debris in the water. However, this damage was subsequent in time to the damage identified above, and to a substantial extent involved further damage to components already totally destroyed while the aircraft was moving under its own power and momentum.

DATED this 6th of June, 1990.



William H. Greene

Subscribed and sworn to before me this 6th day of June, 1990.



R. L. Pughell
Notary Public
Residing in Salt Lake County, Utah

CERTIFICATE OF HAND DELIVERY

I hereby certify that a true and correct copy of the
foregoing document was hand delivered this 12 day of

June, 1990, to:

A. Dennis Norton
Camille N. Johnson
SNOW, CHRISTENSEN & MARTINEAU
10 Exchange Place, 11th Floor
Salt Lake City, Utah 84145
Attorney for Plaintiff

Nancy Hilden